

21 C.J.S. Courts § 120

Corpus Juris Secundum | May 2023 Update

Courts

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III. Creation and Constitution; Officers of Courts

A. Creation, Organization, and Abolition of Courts

3. Jurisdiction and Transfer of Cases; Judicial Departments and Districts; Divisions of Courts

§ 120. Divisions and parts of courts—Transfer of cases

[Topic Summary](#) | [References](#) | [Correlation Table](#)

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A case originally assigned to one division or department may be transferred to another.

A case originally assigned to one division or department of a court may be transferred to another,¹ and a case erroneously transferred to a division that lacks jurisdiction may be retrieved and retransferred to the proper division.² Such a transfer is not a transfer of jurisdiction from one court to another.³ Where a cause of action is strictly defined by statute, a party cannot interpose a counterclaim in order to secure a transfer of the action to another court division.⁴

Transfer of a matter to the proper division,⁵ rather than dismissal,⁶ is the appropriate remedy where a case is filed in the wrong division of a court.

CUMULATIVE SUPPLEMENT

Cases:

Trial court should have transferred to appropriate division, rather than dismissed with prejudice, complaint filed in family division by curator for wife's estate, alleging that wife's retirement assets were wrongfully diverted before husband's death; complaint did not appear to state grounds for enforcing prior judgments in divorce action since both husband and wife were deceased, and court concluded that complaint was not properly filed in family division and that complaint should have been filed as independent action. [Golden v. Jones](#), 194 So. 3d 1060 (Fla. 4th DCA 2016).

[END OF SUPPLEMENT]

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Footnotes

- 1 N.J.—[Prado v. State](#), 186 N.J. 413, 895 A.2d 1154 (2006).

Okla.—[Jernigan v. Jernigan](#), 2006 OK 22, 138 P.3d 539 (Okla. 2006).

As to transfer of cases, generally, see § 117.

By presiding judge
Ohio—[State, ex rel. Lomaz v. Court of Common Pleas of Portage County](#), 36 Ohio St. 3d 209, 522 N.E.2d 551 (1988).
- 2 Ohio—[Schucker v. Metcalf](#), 22 Ohio St. 3d 33, 488 N.E.2d 210 (1986).
- 3 Fla.—[Reed v. City of Hollywood](#), 483 So. 2d 759 (Fla. 4th DCA 1986).
- 4 Conn.—[Sierra v. Lozada](#), 31 Conn. App. 114, 623 A.2d 1045 (1993).
- 5 Pa.—[In re Estate of Cantor](#), 424 Pa. Super. 24, 621 A.2d 1021 (1993).
- 6 Idaho—[Martin v. Spalding](#), 133 Idaho 469, 988 P.2d 695 (Ct. App. 1998).

Ohio—[Siebenthal v. Summers](#), 56 Ohio App. 2d 168, 10 Ohio Op. 3d 186, 381 N.E.2d 1344 (10th Dist. Franklin County 1978).

Pa.—[In re Estate of Cantor](#), 424 Pa. Super. 24, 621 A.2d 1021 (1993).